

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0031P

**Gross Income Tax
Calendar Years 1993, 1994, and 1995**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration**— Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, incorporated in New York on May 21, 1908 was audited for calendar years 1993 through 1995. Upon audit it was discovered that the taxpayer failed to report gross income for calendar years 1993 and 1994 and failed to file a return for 1995.

Taxpayer requests that the department waive the negligence penalty.

I. **Tax Administration**— Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty because it failed to report gross income for calendar years 1993 and 1994. It also failed to file a return for calendar year 1995.

Taxpayer, in a letter dated November 5, 1997 protested penalties assessed and states that the audit did not result in any changes to corporate income tax and that the audit adjustments resulted from the imposition of gross receipts tax, which the corporation was never subject to before.

Taxpayer maintained a sales office in Indiana during the audit period and reported gross income in

02980031P.LOF
PAGE #2

previous years; i.e. for calendar years 1990, 1991 and 1992 but failed to report for 1993, 1994, and 1995. Therefore, its conduct does not show reasonable cause for waiving the penalty.

FINDING

Taxpayer's protest is denied.